



**North Carolina Department of Health and Human Services  
Division of Mental Health, Developmental Disabilities and Substance Abuse Services**

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Michael F. Easley, Governor  
Carmen Hooker Odom, Secretary

Michael Moseley, Director

April 29, 2005

**MEMORANDUM**

**To:** Legislative Oversight Committee Members  
Commission for MH/DD/SAS  
Consumer/Family Advisory Committee Chairs  
State Consumer Family Advisory Committee Chairs  
Advocacy Organizations and Groups  
North Carolina Association of County Commissioners  
County Managers  
County Board Chairs  
North Carolina Council of Community Programs

State Facility Directors  
Area Program Directors  
Area Program Board Chairs  
DHHS Division Directors  
Provider Organizations  
MH/DD/SAS Professional Organizations and Groups  
MH/DD/SAS Stakeholder Organizations and Groups  
Other MH/DD/SAS Stakeholders

**From:** Mike Moseley



**Re: Communication Bulletin #038  
Policy for Consumer Complaints to an  
Area/County Program**

Attached please find the Division of Mental Health, Developmental Disabilities and Substance Abuse Services finalized Policy for Consumer Complaints to an Area/County Program. This policy has been significantly modified based upon the very thoughtful review and input that we received from Consumer and Family Advisory Committee members, advocates, providers and Local Management Entities. We believe that this policy will provide for statewide consistency in the receipt and processing of consumer complaints. All Area/County Programs will be expected to align their consumer complaint processes and procedures with this policy by no later than August 1, 2005.

Consultation and technical assistance on the implementation of this policy will be provided by the Advocacy and Customer Service Section, DMH/DD/SAS. Please address immediate questions to Stuart Berde, Team Leader, Customer Service and Community Rights Team, Advocacy and Customer Service Section at [Stuart.Berde@ncmail.net](mailto:Stuart.Berde@ncmail.net) or (919) 715-3197.

**Attachment**

**cc:** Secretary Carmen Hooker Odom  
DMH/DD/SAS Executive Leadership Team  
Rob Lamme  
Jim Klingler  
Dick Oliver  
Kaye Holder  
Wayne Williams  
Richard Slipsky

Carol Duncan Clayton  
Patrice Roesler  
Coalition 2001 Chair  
DMH/DD/SAS Staff



***Policy for Consumer Complaints to an Area/County Program***

For the purposes of this policy, a **complaint** is an expression of concern in writing or orally regarding rights, services or administrative issues that the complainant perceives as a problem.

**I. Potential Rights Violations**<sup>1</sup>

1. A consumer, guardian, staff person or other individual observing the alleged violation may file a complaint against a service provider or Area/County Program (hereinafter A/CP) staff to the A/CP. DMH/DD/SAS shall provide A/CPs with a listing of standard elements to be collected for each complaint. The A/CP's Customer Service and Consumer Rights office<sup>2</sup> (hereinafter CSR) staff must assist a complainant who requests assistance in filing the complaint and also provide consumer information materials describing the complaint process and how to contact advocacy groups.
2. Complaints are filed to the A/CP's CSR office.
3. The CSR must notify a complainant within 5 days<sup>3</sup> of receipt of the complaint whether the complaint will be addressed directly by a conflict resolution process or by conducting an investigation of the allegation(s).<sup>4</sup>
4. In CONFLICT RESOLUTION PROCESSES (Informal Reviews), the A/CP shall offer the complainant the option of accessing the provider's internal complaint process or conflict resolution services offered by the A/CP.
  - (a) Consumers are not required to participate in the provider's conflict resolution or complaint process before submitting a complaint to the A/CP.
  - (b) If the issue is resolved either by the provider's or the A/CP's conflict resolution process, the A/CP documents the results.
  - (c) The informal review shall be completed within 10 days after the complaint is received by the CSR.
  - (d) If the issue is not resolved, the complainant may file a complaint to the A/CP Human Rights Committee within 10 days from the date of the completion of the conflict resolution process.
  - (e) If the need for an investigation is revealed during conflict resolution, the A/CP will begin the investigation or refer the matter to the appropriate State or local government agency.

<sup>1</sup> Including, but not limited to, G.S.122C-Article 3, NCAC T10A 26B (Confidentiality Rules for MH/DD/SA Facilities and Services) and 27C, 27D, 27E, 27F (Client Rights Rules in Community MH/DD/SA Services).

<sup>2</sup> Each A/CP is developing these functions which include customer service, advocacy and investigation.

<sup>3</sup> All days are calendar days. If necessary, deadlines fall on the first business day after a weekend or holiday.

<sup>4</sup> The A/CP or the complainant may request technical assistance from the DMH/DD/SA Customer Service and Community Rights Team. No formal resolution or decision shall be rendered by DMH/DD/SA in this process.

- (f) The Human Rights Committee's decision shall be dated and mailed to the complainant by the CSR within 15 days from receipt of the complaint.
- 5. In INVESTIGATIONS, the A/CP must adhere to all procedures and deadlines that apply to the complaint and investigation process for 10A NCAC 27G .0606 (pursuant to SB 163), the relevant portion of which is summarized below in (a) to (f):
  - (a) The A/CP must complete the complaint investigation within 30 days of the date of the receipt of the complaint and submit a report of investigation findings to the complainant, the provider or to the appropriate supervisory staff for complaints regarding A/CP program staff and to the consumer's home A/CP, if different.
  - (b) The report shall be submitted within 10 days of the date of completion of the investigation.
  - (c) If a violation is found, the A/CP shall require remedial action through a plan of correction submitted by the provider within 10 days from the date the provider receives the complaint investigation report.
  - (d) The A/CP shall review and respond in writing to the provider's plan of correction with approval or a description of additional required information to the provider within 10 days of receipt of the plan of correction.
  - (e) If a plan of correction is needed, it shall be implemented in a timely manner not exceeding 60 days from the date of the complaint investigation report. The A/CP shall verify that the corrected actions cited in the investigation report were implemented no later than 60 days from the date the plan of correction is approved.
  - (f) The A/CP shall comply with 10A NCAC 27G .0606 (pursuant to SB 163) regarding the referrals of A/CP investigations to the State or local agency responsible for regulation or oversight of the matter.
  - (g) The complainant who disagrees with the results of the A/CP actions may file a complaint to the Human Rights Committee within 10 days from the receipt of the A/CP investigation report or the A/CP approval of the provider's corrective action plan. The complaint is limited to the complaint record and allegations that the investigation and/or corrective actions are inadequate or not completed in a timely manner.
  - (h) The Human Rights Committee shall notify the complainant within 5 days from receipt of the complaint whether the complaint meets the above criteria. If the complaint is accepted by the Human Rights Committee, the CSR shall send the Human Rights Committee's written decision within 15 days from receipt of the complaint to: 1) uphold the investigation findings and corrective action plan 2) return the investigation findings and corrective action plan to the CSR for a reinvestigation, 3) uphold the investigation findings and corrective action plan with specified changes.

## **II. Complaints Regarding Clinical Service Decisions**

The procedures shall be outlined in the LME Utilization Management Policy.

## **III. Complaints Regarding Administrative Issues and Service Quality**

A complaint regarding administrative issues or service quality may be filed by a consumer, legally responsible person, staff, or any other individual without a conflict of interest. The CSR staff must assist a complainant who requests assistance in filing the complaint and also provide consumer information materials describing the complaint process and how to contact advocacy groups.

### **1. Receipt and Documentation of Administrative or Service Quality Complaints:**

The CSR reviews and documents the complaint. The CSR shall acknowledge receipt of the complaint the same or next business day following the date the complaint was received. The CSR shall describe the informal review process to address the specific complaint and provide contact information to the complainant for questions regarding the complaint.

### **2. Review Levels:**

*Level I:* Informal Review Process: The CSR shall implement an informal process to review the complaint within 10 days from the date the complaint was received orally or in writing by the CSR and ensure that the complainant is given full opportunity to represent his/her concern. A decision regarding the complaint shall be dated and mailed to the complainant by the CSR within 2 days of the date the review was held.

*Level II:* A complaint regarding a Level I decision must be received orally or in writing by the CSR within 10 days of the date indicated on the Level I written decision letter. The CSR shall acknowledge receipt of the complaint the same or next business day following the date the complaint was received. The A/CP Director shall review the complaint. The CSR shall send the A/CP Director's written decision to the complainant within 10 days from the date the complaint was received by the CSR. The letter shall be mailed no later than the next day following the Level II review decision.

## Utilization Management Complaints to Area/County Programs

**Note: A/CPs may include this section in their Utilization Management Policy. The content of this section and sections I and III shall be available and easily accessible to consumers in a consumer-friendly handbook.**

A complaint concerning a clinical decision regarding non-Medicaid services may be filed either by a consumer, legally responsible person or any other individual who does not have a conflict of interest. *Consumers shall be advised that filing a complaint in no way guarantees the consumer the specified service regardless the outcome of the review.*

DMH/DD/SAS shall provide A/CPs with a listing of standard elements to be collected for each complaint. The CSR staff must assist a complainant who requests assistance in filing the complaint and also provide consumer information materials describing the complaint process and how to contact advocacy groups.

1. Complaint Information: The A/CP shall provide consumers and/or their legal representatives with written information about filing a complaint regarding clinical authorizations when the consumers and/or legal representatives 1) enter services, 2) disagree with the person-centered planning team's or the utilization management (UM) clinical recommendations, or 3) at any other time the consumers and/or legal representatives request such information.
2. A letter shall be dated and mailed no later than the next day following the team meeting or the UM decision to deny authorization. The letter shall state that the requested service may be authorized if the prior denial is overturned by the subsequent A/CP clinical review.
  - The letter shall include information to the consumer and/or his or her legal representative regarding the reason for the decision and any available options or considerations while the complaint is under review.
3. Filing Requirements:  
The complaint must be received orally or in writing by the CSR within 10 days of the date of the letter.
4. Clinical Reconsideration Review:

The A/CP Medical/Clinical Director or designee with credentials comparable to the prior reviewer shall complete a clinical review of the complaint and may uphold or overturn the original decision within 5 days from receipt of the complaint. The A/CP Medical/Clinical Director or designee shall review the complaint based on the following criteria:

- The decision described in the letter is not consistent with established service definitions.

- The decision described in the letter is not clinically appropriate to the complainant's situation.

*Decision Requirements:* The A/CP Medical/Clinical Director or designee notifies the complainant and the CSR of the decision within 2 days from the date of the clinical review. The decision letter to the consumer shall be mailed no later than the next day following the A/CP review decision. In cases in which the reviewer overturns the original decision, the decision letter shall state the date on which the denied service shall be authorized or the date on which the suspended, reduced or terminated service shall be reinstated.

The LME shall develop an expedited clinical review process to address complaints regarding emergency services.